

A SYSTEM WITH NO CENTER

Now a Sacramento Superior Court judge, Steve White headed the independent Office of the Inspector General, which investigates conditions in California state prisons, from 1999-2003. Harshly critical of the system he investigated, White says radical change must occur — and soon.

By Sigrid Bathen

In 1999, Steve White was named by Governor Gray Davis to head the state Office of the Inspector General, an independent agency which investigates the state prison system and recommends changes. The prison system includes the state Department of Corrections (CDC), the California Youth Authority (CYA), the state Board of Prison Terms, the state Board of Corrections and the Prison Industry Authority — all gathered within a “super-agency,” the Youth and Adult Correctional Agency (YACA).

White, who brought strong legal and law enforcement credentials to the job, began his legal career as a county prosecutor in Sacramento, then served as executive director of the California District Attorneys Association before being tapped by then-Attorney General John K. Van de Kamp in 1983 to head the criminal division in the state Department of Justice. He was appointed Sacramento County district attorney in 1989 then ran successfully for the job in 1990. He was defeated for re-election in 1994 and worked in private practice.

As Inspector General, White sent investigators across the state and regularly visited prisons himself. White’s office was hampered by a state budget crisis that slashed its budget by 77 percent in two years and reduced its workforce from 117 employees to 19.

White left the office in 2003 when Davis named him to the Sacramento Superior Court. Early in the new administration, Governor Arnold Schwarzenegger fired acting Inspector General John Chen, who had been White’s deputy, and said the agency would be abolished. The governor later changed his mind, appointing a new Inspector General, former Deputy Attorney General Matthew Cate. He also appointed a special commission, headed by former Governor George Deukmejian, to investigate the prisons.

Following are edited excerpts from a two-hour interview with White, conducted in his Superior Court chambers in Sacramento on March 24, 2004.

California Journal: *In your testimony before the Senate prison oversight committees, you called the state prison system “an immense organic entity [with] no center.” Please elaborate.*

Steve White: A combination of factors make it impossible to manage in a conventional way. That is partly because it has gotten so big so fast, but there are myriad other factors. ...This is not a model that can be tweaked or

amended. It has to be fundamentally changed. [Corrections administrators and staff] are so caught up in the department, so much a product of that environment, that things plainly wrong to an objective set of eyes are seen as variously not a problem or simply something one had to live with. Contributing to this [environment] is the geographic and architectural isolation of the prisons. Most prisons are put far, far away from the rest of



Steve White, former state Inspector General and current Superior Court judge, testifies in January before the Senate prison oversight committees. Photo: California Journal archives

society. Most of what happens in them is in the shadows and not known outside of the prisons. You overlay that with the code of silence, you can see how hard it is to reform.

CJ: *You also likened the entire system, including the California Correctional Peace Officers Association, to a pool table, with CCPOA being “the biggest ball, beating the other balls all over the felt.” Explain.*

White: To make the prisons run, there are a lot of players in the mix, CCPOA being one of them. But [the players] need to be reporting to an authority responsive to the people, and that authority — the director or the

commission is probably a good idea — they have good people on that commission. But that wheel has been invented. ...I listen to people from YACA, from Dept. of Corrections, assuring the federal court and the Legislature and the governor that they’re on top of this, there’s a new sheriff in town and by God this won’t happen again. That doesn’t do it. We know what the problems are.

CJ: *Agency reorganization seems to be a popular bureaucratic approach to problems in government, but does it result in substantive reform?*

White: [YACA leadership] became akin to the English royal family, and it had about as much influence on the

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governor — has to have the last word. I don’t think it works that way now. CCPOA is an almost seamless power which threads through the entirety of the department. A warden’s power, while not insignificant, is at one prison. The corrections director should be the single most powerful entity in terms of seeing how to broker and decide and resolve policies in a way that is responsible to sound principles of management and public accountability. ...It takes somebody very powerful, somebody who is a very capable leader. It’s not a bureaucratic job. There is a huge bureaucratic component, but that component has to be subordinate to pure leadership. If the director were to take the position — not just lip service — that “the code of silence will not be permitted, it will not happen on my watch, and I will use all my power to thwart it, to stop it, to prevent it” ... that [would be] a statement of policy and leadership.

The assurances [of change and reform] the Legislature and the governor and the public are being given now are not new. I am utterly skeptical of those [assurances] until and unless there is definitive, dramatic, decisive action that is consistent with those expressions. ...It has to be something their gut is in. ...[Dept. of Corrections leaders] can’t just compartmentalize this job and say, “Well, you know, it’s Corrections, what can you do?” Their idea of doing something is appointing task forces, having meetings upon meetings, adopting policies, changing regulations. The policy manuals of the Department of Corrections can’t be read by a human being in a human lifetime. There are many internal inconsistencies. No one knows what’s in them, and no one cares.

CJ: *What is your view of the new governor’s commission? Do we need yet another review, another report?*

White: From the governor’s perspective, this commis-

sion is probably a good idea — they have good people on that commission. But that wheel has been invented. ...I listen to people from YACA, from Dept. of Corrections, assuring the federal court and the Legislature and the governor that they’re on top of this, there’s a new sheriff in town and by God this won’t happen again. That doesn’t do it. We know what the problems are.

CJ: *You said you respected Rod Hickman when he was warden at Mule Creek State Prison, but that you’ve since lost respect for him. Why?*

White: He did several things that were inexcusable for somebody who is really committed to change, which he plainly is not, in my view. One is acceding to, and maybe even recommending, closure of the office of Inspector General. I wasn’t in the position at the time, so this isn’t personal, although it is strongly felt. [White earlier referred to Hickman as a “careerist” more interested in his own career than in fixing problems within his agency.]

CJ: *You said the correctional system was created by people who didn’t want it to work. What do you mean?*

White: A significant part of the prison system should — and statutorily does — have the responsibility to prepare people to go back into the community, and they parole well over 100,000 people every year. ...A surprising aspect of the culture of CDC doesn’t have any sympathy with that objective.

CJ: *Isn’t that the view of the general public?*

White: The general public doesn't know or need to know as much as people in the prison system need to know. It's easy to get money for incarceration. ...It's harder by far to sell the need for money for rehab and programming, significantly because the public doesn't reflexively support that and needs education on that point. A lot of this falls on the Legislature.

CJ: *During your tenure, your office conducted hundreds of investigations and audits. Would you highlight some of the more egregious findings?*

White: [There were] findings on use of force, health services and delivery, lockdown management, security

out of compliance with the regulations on exercise. Often the department was trying, but they had so many people locked down that it was logistically impossible to comply with the minimum exercise requirements. Other times, they just weren't giving them exercise.

There were a lot of complaints about the food ... it was so pervasive and different in each prison. Some prisons were serving diets which were nutritionally substandard, ultimately harmful. One prison cut out all fruit. The explanation was that inmates can make "pruno" (alcohol), but you can make pruno out of anything with sugar in it, so you address the pruno issue by doing cell searches, not by denying food.

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housing issues, juvenile justice lockdowns. And then there are a large number of cases where we're talking about an individual — an inmate will allege some abuse, or a correctional officer would file a retaliation complaint that he or she was retaliated against by a superior. [Reports available at www.oig.ca.gov]

CJ: *What did you find regarding "602s," the inmate appeal mechanism?*

White: "602s" are appeals that inmates file if they feel they have been harmed, their rights violated. The 602 is the only mechanism in the system that allows an inmate to illuminate some issue beyond his cellblock. We did a number of audits and investigations of 602s. Generally, we concluded that they were not being processed consistent with law in many institutions. ...We found that in some prisons, the 602s were being thrown away or destroyed. Or they were allowed to sit for months without action. There are many levels of review, the last being the director's level. They would go to the director sometimes, and still there would be no response.

CJ: *What did you find when you visited prisons?*

White: I went into the prisons almost every week and talked to staff and inmates. I would always go talk to people who wouldn't normally see someone from the outside, and I would talk to [inmates] without Corrections people with me. It's impossible to talk to them without somebody knowing I'm talking to them. But I would go into security housing units, to the cells, and make sure [officers] would be off the tier. I'd talk to these guys, take notes and my staff would follow up. ...Sometimes [inmates] were wrong, sometimes they were crazy, but often I would find things like they hadn't had any soap for two or three weeks. They hadn't had exercise; the prisons were almost always

Sometimes they wouldn't want to talk. The Nuestra Familia and the Mexican Mafia (prison gangs) were reluctant to talk because it's culturally not allowed — to talk to the government. But I'd just sit down with them on the yard, and they would open up.

CJ: *Do you think if reporters were allowed to do individual inmate interviews, which have been prohibited for several years, some of these issues might have been addressed?*

White: Definitely.

CJ: *Recent news stories have detailed chilling accounts of prison health care — an inmate who bled to death, an elderly inmate who starved to death, the CYA suicides. Your reports were highly critical of prison medical care. Elaborate.*

White: The delivery of medical care in the prisons is extraordinarily uneven. ...You may have one institution with pretty high-quality medical care, which may be situational because of a particular doctor or doctors who are there. There are some very fine doctors, but not very many, and you have some places where the medical care is not good, not timely. Some of this isn't the fault of the medical people but attributable to the inmate not being "ducketed" to go to a doctor, which is one reason you need the 602s. Our reports have only begun to scratch the surface.

It's so mismanaged that many millions of dollars are being spent that don't need to be spent. For example, adopting a sensible formulary for prescriptions, you could save \$50 million right out of the box. It's astonishing that they don't have a formulary.

[And] medical records don't always follow the inmate. It's no small thing to move an inmate from, say, San Quentin to Susanville — it requires a lot of people because

An independent investigator

At press time, *The Sacramento Bee* reported that Governor Arnold Schwarzenegger is deciding whether to establish a new prison-watchdog agency to ride herd over the Office of Investigative Services, which handles internal probes at the Department of Corrections and was criticized by a federal monitor in January. The court singled out investigations that prison officers had perjured themselves and allegations of inmate abuse by guards. The new oversight office, still in the planning stages, is expected to have a staff of 20 and be attached to the Office of the Inspector General. The oversight staff would shape investigations, suggest ways to proceed and post findings on a Web site. Funding for the new office is likely to be revealed in the budget revise, due this month.

they don't do anything very efficiently — but one thing you would anticipate is that the medical records would go with them. Forget that they could have a central computer-access file. But assuming you don't have that, you at least need the medical records. I mean the inmate isn't at San Quentin anymore. Well, the medical records may not ever get there, or they may get there in two months.

CJ: Did the lack of medical records have anything to do with the CYA suicides?

White: I believe so. There was one suicide which I doubt would have happened if the committing county had sent the medical records with the ward when he was sent to the CYA. Under the law, the CYA doesn't have to take any ward from any county. It has discretion, if there is some reason why it's not appropriate or timely for the inmate to go to that institution. It should exercise that authority without exception, but CYA was taking these wards without their medical records, which put the ward and the CYA at risk.

CJ: Do you have any hope for substantive change?

White: Yes, but it will only come if the Legislature, the public and the governor keep up steady and unremitting pressure. The [legislative] hearings will go away. The legislators who have a particular focus right now will be termed out. Unless the Legislature continues to focus and unless the public, through the media, continues to press for change, it won't happen. ...The problems are so bad, and the promise of fixing them so feeble, in my view, that there has to be some outside force, some public demand for change.

CJ: What do you think of the governor's actions thus far? He eliminated the Office of Inspector General, then admitted that was not such a good idea.

White: He was ill-advised initially. He was advised by people who either were uninformed or not committed to fixing things. There is no case on the merits that can be made not to have the Inspector General, [who is] independent with adequate resources. One of the really sad things about the huge cuts that the Legislature imposed is that we had assembled some of the finest people in the state. We hand-picked talent from all over the state, auditors from

the controller's office, special agents from the attorney general's office. They have all these skills, special expertise. And then they become so knowledgeable. This is a body of information that is not easily transferable, that very few people have, and they had it. And now they're in the diaspora, they're all over the place. I'm hopeful the funding will be restored and some of these people can be brought back.

CJ: The litigation that comes out of these revelations of abuse and death must be enormously costly to the state during a dire budget year. How does the Inspector General factor into that equation?

White: Dollar-for-dollar, you can't find anything more cost-effective. You can prevent litigation completely, and when you do have litigation, the IG can save the state money. In one of the large lawsuits filed against the CYA by the Prison Law Office in federal court, they attached one of our audit findings, which were very critical. The court said it was dismissing that part of the lawsuit because the OIG had identified it and was addressing it. [U.S. District Court] Judge Henderson and John Hagar, the special master for the judge, have accepted our findings in ways that reduced the litigation or eliminated the need for litigation in particular areas of the case.

CJ: How would you deal with the budget overruns that regularly occur in Corrections?

White: I testified and recommended in the budget hearings to put the significant players in a room, particularly the Department of Finance and the departments themselves and the subcommittees. And you come out of that room with a real number about how much it costs to run [each prison], a specific appropriation. You give them the amount of money that makes sense from a sensible, classical budgeting perspective, and then you hold them to it. If they can't do it, and many of them can't because they don't know budgeting, they're not going to be wardens anymore.

CJ: Do you have anything to add?

White: If there is an opportunity to get things right in these departments, it's now. These problems go back 20-30 years, and they're much worse now, largely a function of the massive growth of this prison system. Most of our prisons are too big. In most states, the average juvenile facility, which is also a school, would be 80 or 100 kids. In California, we have facilities with hundreds of kids. There are a lot of experts in that area who don't think you can do a good job, because they are simply too big. It's the same dynamic to a different extent with the adult prisons. We have so many prisons. We dwarf the rest of the country. 🏠

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